

In the Matter of Merchant Mariner's Document No. Z-55396
Issued to: JULIO ZEDA

DECISION AND FINAL ORDER OF THE COMMANDANT
UNITED STATES COAST GUARD

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JULIO ZEDA

This appeal has been taken in accordance with Title 46 United States Code 239(g) and Title 46 Code of Federal Regulations Sec. 137.11-1.

On 13 May, 1953, an Examiner of the United States Coast Guard at New York, New York, revoked Merchant Mariner's Document No. Z-55396 issued to Julio Zeda upon finding him guilty of misconduct based upon a specification alleging in substance that while serving as utilityman on board the American SS MORMACTIDE under authority of the document above described, on or about 1 September, 1948, while said vessel was in the port of Baltimore, Maryland, he wrongfully had in his possession a narcotic substance; to wit, marijuana.

At the hearing, Appellant was given a full explanation of the nature of the proceedings, the rights to which he was entitled and the possible results of the hearing. Appellant was represented by an attorney of his own selection and he entered a plea of "guilty" to the charge and specification proffered against him.

Thereupon, the Investigating Officer made his opening statement and Appellant made a statement in mitigation under oath. He stated that he had acquired the marijuana in Brazil and kept it aboard ship on the return voyage although he knew what it was and that it was against the law. Appellant also said that he had never used marijuana or any other narcotic and that this was the first trouble he has had since starting to go to sea in 1926.

At the conclusion of the hearing, having given both parties an opportunity to submit proposed findings and conclusions, the Examiner announced his findings and concluded that the charge had been proved by plea. He then entered the order revoking Appellant's Merchant Mariner's Document No. Z-55396 and all other licenses, certificates and documents issued to this Appellant by the United States Coast Guard or its predecessor authority.

From that order, this appeal has been taken, and it is urged that:

(1) While the Hearing Examiner was eminently fair in his conduct of the hearing, he must have been prejudiced by the introduction of evidence as to a conviction of attempted rape while on parole from the narcotic charge.

(2) During Appellant's service in the merchant marine for a period of approximately 26 years his conduct has been exemplary.

(3) The Appellant cooperated in every way possible with the authorities and never at any time attempted to hide any facts or tried to justify any action that he had so wrongfully taken.

(4) The Appellant is married, the father of five children, and that the revocation of his papers leaves him without an opportunity of making a living for himself and his family; and

(5) The Appellant feels that the punishment meted out to him by the Examiner is harsh and severe, and requests that the order of revocation be changed to that of a suspension or probation for any length of time.

APPEARANCES: Alexander Feerman, Esquire, of New York City, of Counsel.

Based upon my examination of the record submitted, I hereby make the following

FINDINGS OF FACT

On 1 September, 1953, Appellant was serving as utilityman on board the American SS MORMACTIDE and acting under authority of his Merchant Mariner's Document No. Z-55396 while the ship was in the port of Baltimore, Maryland.

On this date, U. S. Customs apprehended Appellant on board the ship with approximately twelve ounces of marijuana in his possession. At the time, Appellant admitted that he knew the substance was marijuana. Appellant was later convicted in the U.S. District Court at Baltimore on the basis of this possession of marijuana.

OPINION

The points raised on appeal do not persuade me to modify the order of the Examiner. It is the strict policy of the Coast Guard that all proven narcotics offenders shall have all their seamen's documents revoked regardless of personal hardship or prior clear records over a long period of time. An isolated incident of possession of narcotics is all that is necessary to activate this policy and there is no necessity to prove actual use of narcotics by the offender. It is worthy of note that Appellant, during his testimony, voluntarily and unnecessarily initiated the introduction of evidence concerning his conviction for attempted rape.

ORDER

The Order of the Examiner dated at New York, New York, on 13 May, 1953, is ~~AS~~ FIRMED.

A. C. Richmond
Rear Admiral, United States Coast Guard
Acting Commandant

Dated at Washington, D. C., this 7th day of August, 1953.